



Reprinted  
February 9, 2007

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## HOUSE BILL No. 1339

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DIGEST OF HB 1339 (Updated February 8, 2007 2:34 pm - DI 107)

**Citations Affected:** IC 31-9; IC 31-32; IC 31-37; IC 34-46.

**Synopsis:** Protection from self-incrimination for juveniles. Provides that information provided by a child in the course of mental health screening, assessment, evaluation, or treatment provided during juvenile court, probation, or intake proceedings may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime. Allows the statement to be admitted as evidence if the: (1) statement relates to facts or circumstance of a homicide; (2) statement reveals that the child intends to commit a crime; or (3) child and the child's legal guardian consent to the disclosure of the statement.

**Effective:** July 1, 2007.

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**Brown C, Ulmer**

(SENATE SPONSORS — LAWSON C, SIMPSON)

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January 16, 2007, read first time and referred to Committee on Judiciary.  
February 1, 2007, amended, reported — Do Pass.  
February 6, 2007, read second time, ordered engrossed.  
February 7, 2007, engrossed. Read third time; call withdrawn.  
February 8, 2007, reread third time. Recommitted to Committee of One, amended, passed.  
Yeas 97, nays 0.

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HB 1339—LS 7052/DI 14+



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February 9, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1339

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-9-2-43.8 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]: **Sec. 43.8. "Evaluator", for purposes of IC 31-32-2 and**  
4 **IC 31-37-8-4.5, means a person responsible for providing mental**  
5 **health screening, evaluation, or treatment to a child in connection**  
6 **with a juvenile proceeding or probation proceeding under this title.**  
7 SECTION 2. IC 31-32-2-2.5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2007]: **Sec. 2.5. (a) This section applies only to a court ordered or**  
10 **voluntary mental health:**  
11 **(1) screening;**  
12 **(2) assessment;**  
13 **(3) evaluation; or**  
14 **(4) treatment;**  
15 **provided by or under the direction of an evaluator, as defined in**  
16 **IC 31-9-2-43.8, in conjunction with proceedings under this article.**  
17 **(b) Except as provided in subsection (d) and except for purposes**

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of:

(1) a probation revocation proceeding; or

(2) a modification of a dispositional decree under IC 31-37-22; a statement communicated to an evaluator in the evaluator's official capacity may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.

(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime if:

(1) the statement relates directly to the facts or immediate circumstances of a homicide;

(2) the statement reveals that the child may intend to commit a crime; or

(3) the child and the child's legal guardian have consented to the disclosure of the statement.

SECTION 3. IC 31-37-8-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.5. (a) This section applies only to a court ordered or voluntary mental health:

(1) screening;

(2) assessment;

(3) evaluation; or

(4) treatment;

provided by or under the direction of an evaluator, as defined in IC 31-9-2-43.8, in conjunction with proceedings under this chapter.

(b) Notwithstanding section 4(5) of this chapter and except as provided in subsection (d) and except for purposes of:

(1) a probation revocation proceeding; or

(2) a modification of a dispositional decree under IC 31-37-22; a statement communicated to an evaluator in the evaluator's official capacity may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.

(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime if:

(1) the statement relates directly to the facts or immediate

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1           circumstances of a homicide;

2           (2) the statement reveals that the child may intend to commit  
3           a crime; or

4           (3) the child and the child's legal guardian have consented to  
5           the disclosure of the statement.

6           SECTION 4. IC 34-46-2-28.5 IS ADDED TO THE INDIANA  
7           CODE AS A NEW SECTION TO READ AS FOLLOWS  
8           [EFFECTIVE JULY 1, 2007]: Sec. 28.5. IC 31-32-2-2.5 and  
9           IC 31-37-8-4.5 (Concerning information communicated to an  
10          evaluator providing mental health screening, evaluation, or  
11          treatment to a child in connection with a juvenile proceeding or  
12          probation proceeding.)

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1339, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-43.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 43.8. "Evaluator", for purposes of IC 31-32-2 and IC 31-37-8-4.5, means a person responsible for providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding under this title.**"

Page 1, line 3, after "a" insert **"court ordered or voluntary"**.

Page 1, line 8, delete "a clinician or health care" and insert **"an evaluator, as defined in IC 31-9-2-43.8,"**.

Page 1, line 9, delete "professional".

Page 1, delete lines 10 through 13.

Page 1, delete line 14, begin a new paragraph and insert:

**"(b) Except for purposes of:**

**(1) a probation revocation proceeding; or**

**(2) a modification of a dispositional decree under IC 31-37-22; a statement"**.

Page 2, delete lines 1 through 9, begin a new paragraph and insert:

**"(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity."**

Page 2, line 12, after "a" insert **"court ordered or voluntary"**.

Page 2, line 17, delete "a clinician or health care" and insert **"an evaluator, as defined in IC 31-9-2-43.8,"**.

Page 2, line 18, delete "professional".

Page 2, delete lines 19 through 22.

Page 2, line 23, delete "(c)" and insert **"(b)"**.

Page 2, line 23, delete "except as" and insert **"except for purposes of:**

**(1) a probation revocation proceeding; or**

**(2) a modification of a dispositional decree under IC 31-37-22;"**.

Page 2, line 24, delete "provided in subsection (d), a disclosure", begin a new line blocked left and insert:

**"a statement"**.

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Page 2, delete lines 28 through 36, begin a new paragraph and insert:

**"(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.**

SECTION 3. IC 34-46-2-28.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28.5. IC 31-32-2-2.5 and IC 31-37-8-4.5 (Concerning information communicated to an evaluator providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding.)"**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1339 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1339 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 17, after "Except" insert **"as provided in subsection (d) and except"**.

Page 2, between lines 8 and 9, begin a new paragraph and insert:

**"(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime if:**

- (1) the statement relates directly to the facts or immediate circumstances of a homicide;**
- (2) the statement reveals that the child may intend to commit a crime; or**
- (3) the child and the child's legal guardian have consented to the disclosure of the statement."**

Page 2, line 19, after "except" insert **"as provided in subsection (d) and except"**.

Page 2, between lines 28 and 29, begin a new paragraph and insert:

**"(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child**

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**committed a delinquent act or a crime if:**

- (1) the statement relates directly to the facts or immediate circumstances of a homicide;**
- (2) the statement reveals that the child may intend to commit a crime; or**
- (3) the child and the child's legal guardian have consented to the disclosure of the statement."**

(Reference is to HB 1339 as printed February 2, 2007.)

BROWN C

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1339, begs leave to report that said bill has been amended as directed.

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